



SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Hurd Investments, LLC (Hurd) enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 3868-06, dated May 2, 2006. Hurd is the owner and operator of the underground storage tanks located at 100 Uinta Drive, Green River, Wyoming. This underground storage tank facility is registered with the DEQ as facility 0-002948. The Notice of Violation alleges that: 1) Hurd failed to investigate and report a suspected release when Automatic Tank Gauging failed for all three tanks for the entire months of February, May, June or July of 2005; 2) Hurd failed to pressure test the lines and functionally test the automatic line leak detectors when these tests were due on September 29, 2005. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 14(g)(i)(B), 14(g)(i)(B)(i), 16 (c)(ii), and 19(c).

W.S. 35-11-901(a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Hurd and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Act and Chapter 17, WWQRR.
2. WWQRR, Chapter 17, Section 16 (c)(ii), states: "(c) *Automatic tank gauging (ATG).* Equipment for automatic tank gauging that tests for the loss of a regulated substance shall detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance. Owners and/or operators using automatic tank gauging shall also: (ii) report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any calendar month goes by when a passing result cannot be obtained from the ATG sometime during the month; or (B) A pattern becomes evident that the ATG produces a failing result whenever the level of a regulated substance in the tank is high, even if passing results can be obtained when the level is low. (C) Inventory control fails for the second consecutive month."

WWQRR, Chapter 17, Section 19 (c), states: "Section 19. *Reporting of Suspected Releases.* Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases in accordance with Section 22 and follow the procedures of Section 22. Owners of sites where storage tanks were formerly located shall also report within seven (7) days after discovering any new evidence of a release. These reports shall be made for any of the following conditions: (c) Monitoring results: Monitoring results from a release detection method required under Section 14 through 17 that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result."

WWQRR, Chapter 17, Section 14 (g), states: "(g) *Piping.* Connected piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one (1) of the following requirements: (i) Pressurized piping systems shall: (A) be monitored in accordance with Section 14(g)(i)(B) below. Whenever pressure systems have multiple dispensers hooked up to dispense product through a single meter, the pressurized piping between the first dispenser and the slave dispenser must also be monitored and tested; and (B) Be equipped with an automatic line leak detector in accordance with the following: Methods which alert the owner and/or operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm, may be used only if they detect leaks of three (3) gallons per hour at ten (10) pounds per square inch line pressure within one (1) hour. An annual test of the operation of the leak detector shall be conducted. Manufacturers are required to recommend procedures to be used for testing their own equipment, but all automatic line leak detectors shall be tested annually. No manufacturer shall recommend that its equipment not be tested nor interfere with the testing of its equipment in any way. In addition all underground pressurized piping shall: (1) have an annual line tightness test. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half (1 1/2) times the operating pressure. Tests performed by automatic systems are specifically allowed in meeting this

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requirement; or (2) be tested using any of the methods listed in Section 16(d), (e), (f), (g), (h) or (j). Methods not specifically named in these regulations shall be approved prior to use by the department, pursuant to Section 33, and that approval must state that the method will detect a leak in lines."

3. Hurd owns and operates tanks located at 100 Uinta Drive, Green River, Wyoming and registered with the DEQ, as facility 0-002948. As part of an inspection conducted March 21, 2006, Hurd submitted ATG results for 2005 showing no passing results for any of the tanks for February, May, June, or July of 2005.
4. The underground storage tanks at this location are equipped with pressurized lines. Those lines are required to be pressure tested annually and be equipped with automatic line leak detectors. The automatic line leak detectors are required to be function tested annually. These tests were done September 29, 2004. When these tests were due on September 29, 2005, no such tests were performed.
5. Since receiving Notice of Violation No. 3868-06 on or about May 10, 2006, Hurd has corrected the cited violations.
6. Hurd agrees to pay a total of Twenty Thousand Dollars (\$20,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of Five Hundred Dollars (\$500.00) shall be made within 30 days after execution of this Settlement Agreement. Payment shall be by check made payable to the Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: Robert Lucht, Herschler Building, 4th Floor West Wing, 122 W. 25th Street, Cheyenne, WY 82002.
7. Nineteen Thousand Five Hundred Dollars (\$19,500.00) of this penalty is stayed pending full compliance with Chapter 17 for one (1) year from the date of this Settlement Agreement. For purposes of this Settlement Agreement only, full compliance means:
 - a. Payment in full of all storage tank fees no later than July 1 of each year;
 - b. Registration of these tanks every year no later than July 1 and every time there is a change in status of these tanks as required by statute;
 - c. Performance of any one of the tank leak detection methods found in Chapter 17, Section 16 within thirty days of the date of this settlement agreement and again every thirty days thereafter. This means that Automatic Tank Gauging is to be maintained every month until the automatic tank gauge required under paragraph 10 is fully installed. After the Automatic Tank Gauge is installed, then Hurd shall maintain at least one passing result for every tank for every calendar month. In addition, Hurd shall perform inventory control in accordance with Chapter 17, Section 16(a). Records of all of these tests shall be maintained by Hurd for three (3) years;
 - d. Providing an Operator's Annual Inspection (OAI) of this facility no later than June 29 of each year. The OAI includes: Having a functional test of the Automatic Line Leak Detectors on the pressurized lines no later than June 29, 2006 and every year thereafter no later than June 29. This provision applies to the current mechanical line leak detectors and to the electronic line

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leak detectors to be installed under paragraph 10, below. Records of these tests shall be maintained by Hurd for three (3) years;

e. In the event that the Statistical Inventory Control indicates that a release has occurred, as defined by Chapter 17, Section 16, Hurd agrees to immediately report a suspected release and follow all procedures in Chapter 17, Section 19(c) and Section 20;

f. If these tanks are removed, notification to the department and inspection by the department, as required by statute. If, as a result of the removal, the site is a contaminated site, payment of all contaminated site fees by July 1 of each year.

If Hurd complies fully with Chapter 17 for one (1) year from the date of this Settlement Agreement, Nineteen Thousand Five Hundred Dollars (\$19,500.00) of this penalty shall be forgiven.

8. Hurd's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Hurd based on the violations alleged in Notice of Violation No. 3868-06. Contingent upon Hurd's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Hurd for these particular violations.
9. Hurd waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation No. 3868-06 in the event that Hurd fails to fulfill its obligations under this Settlement Agreement.
10. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
11. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
12. This Settlement Agreement is binding upon Hurd Investments, LLC and all of its successors and assigns, and upon the DEQ.
13. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming State law, or any regulation issued by the Department of Environmental Quality or any federal law or regulation.

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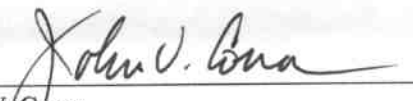
14. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR HURD INVESTMENTS, LLC:



Rodney A. Griffin
President MGR MEMBER
n.s.

July 18 2006
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:


John V. Corra,
Director

6/21/06
Date


LeRoy C. Feusner, PE, BCEE
Administrator
Solid and Hazardous Waste Management Division

20 June 06
Date

\$500⁰⁰ check received 7/21/06 